IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 19066 of 1998

DATED: 24.1.2007

Between:

Rayapudi Venkat Rao and others petitioners

And

The Member Secretary,
APSEB, Vidyut Soudha, Hyderabad and another
Respondents

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO. 19066 OF 1998

Oral order:

The present writ petition is filed seeking the following relief.

> "……..Writ in the nature of Mandamus under Article 226 of the Constitution of India declaring the action of the respondent Board in B.P.Ms.No. 36 and B.P.Ms.No.37 dated 18.5.1997 as illegal, unjust, contrary to law and discriminates the other contract labour working in perennial nature of work as bad in law."

The petitioners claim that they worked as contract labour attending perennial nature of duties viz., errection of 11 KV sub stations and their maintenance in the erstwhile APSEB. The grievance of the petitioners is with regard to not including the nature of duties performed by them in the 33 abolished categories for consideration in terms of B.P.Ms.No. 36 and B.P.Ms.No.37 dated 18.5.1997. In nut shell the petitioners seek absorption of their services in the respondent corporation in terms of B.P.Ms. No. 36 and B.P.Ms.No.37 dated 18.5.1997 on the ground that they were attending to perennial nature of duties.

The learned standing counsel for respondents submitted that the nature of duties performed by the petitioners were not included in B.P.Ms.No. 36 and 37 dated 18.5.1997 and they cannot seek any relief on par with the candidates entitled for absorption in terms of said Board proceedings. It is also submitted that in terms of decision of the Apex Court in **Steel Authority of India Limited vs. National Water Front Workers**[1], the writ petition is not maintainable.

The respondent board in consultation with the recognized unions took a decision to fill up 50% of the vacancies in initial recruitment cadres by considering the cases of Ex-casual labour, contract labour and Village Electricity Workers. The petitioners herein claim that they too worked as contract labour in perennial nature of works and are entitled for consideration of regularization in terms of B.P.Ms.No.36 and 37 dated 18.5.1997. Thus, in nut shell the petitioners seek regularization of their services. The relief of absorption/regularization claimed by the petitioners in the present writ petitions, having regard to the judgment of the apex Court in ***Steel Authority of India Limited vs. National Water Front Workers***[2], cannot be granted. In the said judgment, the apex Court held that the determination of the questions as to whether the contract of employment of labour is a genuine one or a mere ruse/camouflage to evade the provisions of beneficial labour legislation, require inquiry into disputed questions of facts, which cannot conveniently be made by the High Courts in exercise of their jurisdiction under Article 226 of the Constitution, and the appropriate authority to go into those issues was the Industrial Tribunal/Court whose determination will be amenable to judicial review.

Following the judgment of the apex Court in **Steel Authority of India Limited vs. National Water Front Workers**, a learned single Judge of this Court disposed of a batch of similar writ petitions in W.P. No. 16865 of 1991, by judgment dated 27.09.2002, granting liberty to the petitioners to approach the labour authorities under the Industrial Disputes Act, 1947 for the relief of absorption/regularization. In fact, following the said judgment, other learned Judges of this Court, disposed of several batch of writ petitions with similar directions.

Heard the learned counsel for the petitioners and the learned Standing Counsel for the respondents.

In the circumstances, following the aforesaid judgment and for the reasons mentioned therein, I deem it appropriate to dispose of this writ petition with the following directions:

The petitioners are at liberty to approach the labour authorities under the Industrial Disputes Act, 1947 for the relief of absorption/regularization of their services with the respondents organisation.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Dated: 24.1.07
TVK

THE HON'BLE MR JUSTICE N.V. RAMANA

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DATED: 24.1.2007

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[1] 2001 (6) ALD 1

[2] 2001 (6) ALD 1